

**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

BAHRAIN

The present document reproduces the text¹ of the Draft Law (2001) on Industrial Designs, which is under consideration by the competent authorities of the Bahrain Government, notified by Bahrain under Article 63.2 of the Agreement by means of a communication from its Delegation dated 28 November 2001.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

BAHREÏN

Le présent document contient le texte¹ du projet de Loi de 2001 sur les dessins et modèles industriels, actuellement examiné par les autorités compétentes du gouvernement bahreïnite et notifié par Bahreïn au titre de l'article 63:2 de l'Accord dans une communication de sa délégation datée du 28 novembre 2001.

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

BAHREIN

En el presente documento se reproduce el texto¹ del proyecto de Ley de Dibujos y Modelos Industriales de 2001, que está siendo examinado por las autoridades competentes del Gobierno y que Bahrein ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo mediante una comunicación de su Delegación de fecha 28 de noviembre de 2001.

¹ In English only./En anglais seulement./En inglés solamente.

DRAFT LAW NO. ---- (2001) ON INDUSTRIAL DESIGNS

PART I: GENERAL PROVISIONS

Article 1

For the purposes of this Law, any composition of lines or colors or any three-dimensional form, whether or not associated with colors, is deemed to be an industrial design, to be used in a product of industry or handicraft, provided that such composition or form gives a special pattern for the industrial product.

Article 2

Protection provided for under this Law shall not prejudice the literary and artistic rights associated with industrial designs accorded under legislation or international conventions and treaties to which the State of Bahrain is party.

Article 3

Where an application for the registration of an industrial design is filed in a Member of the World Trade Organization or in a State holding reciprocal relations with the State of Bahrain, any interested person, or his successor in title, may file an application for the registration of the same industrial design in accordance with the requirements, conditions and procedures provided for under this Law, within one year from the filing date in the foreign country. In such case, the date of the initial deposit shall be the basis for determining the priority right.

Article 4

Without prejudice to the provisions of international conventions in force in the State of Bahrain, any natural person or legal entity from the State of Bahrain, from a Member of the World Trade Organization or from a State holding reciprocal relations with the State of Bahrain, shall be entitled to file an application for the registration of a patent in accordance with the provisions of this Law.

PART II: REGISTRATION OF INDUSTRIAL DESIGNS

Article 5

- a) The competent authority at the Ministry of Commerce and Industry shall establish a register to be known as the "Register of Industrial Designs" where are recorded applications for the registration of industrial designs as well as all related data. Procedures for the filing, examination and registration of applications shall be determined in the Regulations under this Law. An application may contain more than one design being one homogenous unit. In such case, a prescribed fee shall be paid for each industrial design.
- b) An application for registration of an Industrial Design , shall be filed with the competent Directorate by the concerned person, or his representative, using the prescribed form and in accordance with the provisions set forth in this Law and pursuant to the terms, conditions and procedure prescribed in the Implementing Regulations. The competent authority shall decide on the application for registration within 30 days upon fulfillment of conditions and requirements provided for under this Law and its Regulations and relevant Decisions. Where no decision is taken on the application within that period, it shall be understood that the application is rejected.

Where the competent authority accepts the registration , it shall publish such decision, in the manner prescribed under the Implementing Regulations.

- c) Any interested person may, within 60 days from the date of such Publication, challenge the registration of the mark in a reasoned written petition addressed to the competent authority. The competent authority shall inform the applicant of such petition within 30 days from its submission. The applicant may, within 30 days from the date on which he is informed, provide the competent authority with a written reply to such petition, otherwise it shall be understood that he has withdrawn his application and the registration is to be deemed void. Before deciding upon the petition challenging the registration, the competent authority shall hear the parties if requested to do so by either of them. The competent authority shall decide upon the petition within 60 days of its receipt of the challenge failing which the challenge is to be deemed rejected .

Article 6

- a) An industrial design is registrable if it satisfies the following conditions:
- i) if it is new and has not been disclosed to the public, in the State of Bahrain or abroad, by any manner including use and publication, prior to the filing date or, where applicable, the priority date of the application for registration, in accordance with the provisions of this Law;
 - ii) if it is created in an independent manner and may be used as a product of industry.
- b) Notwithstanding item (i), an industrial design shall not lose the novelty feature if this presentation or description is done prior to the filing of the application for registration with the Member of the World Trade Organization or the State holding reciprocal relations with the State of Bahrain; or if the presentation is organized in a national or international exhibition; or if the industrial design is the subject of a publication in a conference or a scientific periodical; within a period not exceeding one year prior to the filing date of the application for registration in the State of Bahrain.
- c) The registration of industrial designs which are contrary to public order or morality and those normally requiring artistic or functional considerations with regard to the product, shall be prohibited.

Article 7

The owner of the industrial design, or his successor in title, shall be entitled to a certificate for the registration of such industrial design. Where the innovation is the result of a collective work by several persons, they shall all be equally entitled to the certificate, unless agreed otherwise. Any person whose efforts are limited to assist in the implementation of the design without contributing in any inventive step shall not be a creator nor be considered as such.

Where an industrial design is invented by many persons working independently from each other, the right to registration shall belong to the person who files, before the others, the application for the registration of the industrial design, or the person who claims priority for the same invention before others.

Article 8

In case of a contract between two persons for the creation of an industrial design, the employer shall be entitled to all economic rights derived from the invention, unless agreed otherwise.

In all cases, the industrial design shall always be attributable to its inventor. Any agreement preventing the employee from the benefits provided for under this Article shall be void.

PART III: PROTECTION OF INDUSTRIAL DESIGNS

Article 9

The protection prescribed for an industrial design under this Law shall grant its owner the right to prevent others from selling, importing or manufacturing, for commercial purposes, any product whose design has been reproduced in its entirety or parts thereof.

Article 10

The duration of protection for industrial designs shall be 10 years from the filing date of the application for registration. Protection may be renewed for a further five years if the owner of the design files a new application during the final year, in accordance with the manner determined in the Regulations under this Law.

Article 11

Industrial designs exposed by any creator in exhibitions organized in the State of Bahrain or abroad shall enjoy provisional protection until a decision is taken thereon by the Minister of Commerce and Industry in accordance with the provisions and procedures determined under the Regulations and pursuant to the provisions of international conventions and treaties in force in the State of Bahrain.

Article 12

Any interested person may request from the Supreme Civil Court to cancel the registration of an industrial design if the registration is effected for a person other than the actual owner of the design, or if the registration is contrary to the provisions of Articles 2 and 4 of this Law.

The competent authority at the Ministry of Commerce and Industry shall cancel such registration upon reception of a final order thereon.

Article 13

Any person shall have access to the Register of Industrial Designs and obtain extracts thereof in accordance with the procedures and requirements and after payment of the fees prescribed under the Regulations.

PART IV: TRANSFER, LICENSING, MORTGAGE AND SEIZURE OF INDUSTRIAL DESIGNS

Article 14

An industrial design may be transferred in full or in part, with or without compensation, including through inheritance or license of exploitation.

Transfer of property - except through inheritance - and licensing shall be subject to payment of a fee and recorded in the Register of Industrial Designs after payment of the prescribed fee. The transfer of an industrial design may not be used as evidence against a third party unless it is recorded in the Register.

Article 15

The creditor may seize an industrial design owned by the debtor under the law governing civil and commercial proceedings for the seizure of movables or the debtor's holdings by third parties. [sic: The competent authority shall exempt provisions concerning the declaration by the party seizing of his property to the party being seized].

Article 16

An industrial design may be mortgaged as a guarantee for a loan. Such mortgage shall be recorded and published in a manner determined under the Regulations. The mortgage of an industrial design may not be used as evidence against a third party prior to the date of its recordal.

Article 17

Any interested person may file an opposition with the Minister of Commerce and Industry against any decision issued pursuant to the provisions of this Law, within 30 days from the date he is notified of the decision. Decision on such opposition shall be taken within 30 days from its filing date. The interested person shall be notified of the decision taken concerning his opposition within 30 days from the date on which such decision is taken. Where the interested person does not receive any notification, it shall be understood that such opposition is rejected. Any person whose opposition is rejected or deemed to be rejected may file an appeal before the competent court against such decision. An appeal may lie to the court only after opposition to the decision is submitted, the decision rejecting the opposition is issued, or no reply is given within the appropriate period.

PART V: PROVISIONAL MEASURES AND SANCTIONS

Article 18

(a) The President of the competent court may, upon demand from the right holder and pursuant to an order issued on the basis of a request, order one or more of the following procedures and any other appropriate provisional measures, in case of, or to prevent any infringement of any right provided for under this Law:

1. Preserving the evidence and establishing an official record and a detailed description of machines and tools used for that purpose, and maintain the relevant evidence;
2. Provisional seizure of the objects referred to in the preceding paragraph.
3. Order the infringement to be ceased or to prevent it from taking place.

(b) The request shall be accompanied by sufficient evidence proving that the applicant is the right holder and that such right is, or is likely to be, subject to infringement.

The President of the court may require from the right holder to provide the necessary information to assist the authorities responsible for implementing the provisional measure.

(c) The President of the court may, as appropriate, issue the said order urgently without summoning the other party - where any delay in issuing such order is likely to cause irrecoverable damage to the applicant or result in the destruction of evidence - provided that the other party is notified upon issuing that order. This order establishing any such measures may include the designation of one or more experts to assist in implementation and prescribe the deposit of an appropriate bank or money bail for the safeguard against any unfair prejudice deriving from the procedure. The person against whom the order is issued may file an appeal with the competent court within ten days from the date on which the order is issued or on which he is notified, as the case may be. In such case, the Court may confirm the order or reject in full or in part.

(d) The case concerning the substance of the conflict shall be initiated within 15 days from the date on which the order is issued, otherwise the measure taken shall be void.

Article 19

Without prejudice to any more severe sanction provided for under any other Law, any person who, knowingly and unlawfully, performs one of the following acts shall be punishable by imprisonment for a period of at least three months and not exceeding one year and by a fine of at least 500 Dinars and not exceeding 2000 Dinars or by either one:

(a) the act of reproducing a protected Industrial-design without the authorization of the right holder;

(b) the act of selling, distributing or importing a registered Industrial-design or a product in which an integrated circuit is incorporated, without the authorization of the right holder.

The court may prescribe the publication of the order in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of a second offence, infringement shall be punishable by imprisonment for a period of at least three months and not exceeding two years and a fine of at least 500 Dinars and not exceeding 4000 Dinars or by either one, together with the closure of the commercial establishment or business or the cease of the activity, as the case may be, for a period of at least 15 days and not exceeding six months. Such order shall be published in one or more issues of a daily newspaper at the expense of the party against whom the decision is taken.

In case of conviction, the court may order the seizure or destruction of the products or goods obtained from the offence, including imported articles upon their arrival, as well as the machines and tools used for that purpose.

In case of discharge, the court may order the seizure or destruction of the objects referred to in the preceding paragraph if they have caused any damage or been used to infringe the rights of the right holder.

The General Prosecutor shall initiate sanctions on the offences referred to in this Article.

PART VI : MISCELLEANOUS PROVISIONS

Article 20

Officials designated by the Minister of Commerce and Industry shall have the capacity to ensure implementation of the provisions of this Law and relevant decisions. For that purpose, they may establish official records on infringements of the provisions of the Law and refer them to the general prosecutor.

Article 21

The Minister of Commerce and Industry shall issue the implementing decisions containing detailed provisions concerning the application of this Law, particularly:

(a) organizing the administration for registration of industrial designs and maintaining Registers;

(b) determining fees for recordal, renewal, extracts and certificates, as well as the procedures provided for under this Law, as appropriate.

The determination or amendment of those fees shall be subject to approval by the Cabinet.

Article 23

The Minister of Commerce and Industry shall issue the Regulations and Decisions necessary for the implementation of this Law.

Article 24

Ministers shall, each within their capacity, implement this Law from the date on which is it published in the Official Gazette.
